

BOARD OF COUNTY COMMISSIONERS
Agenda Item Summary

Meeting Date 8/18/04

Division

County Attorney

AGENDA ITEM WORDING

Discussion of issues relating to the prosecution of County ordinance violations and request for authorization to seek clarification from the Attorney General of the County's ability to prosecute its own ordinances.

ITEM BACKGROUND

Prior to the implementation of the revisions to Article V of the Florida Constitution, county ordinances violations were prosecuted by the State Attorney's office in County Court. The implementing legislation and subsequent "glitch bill" placed limits on the ability of the SAO to prosecute those ordinances unless the County enters into a contract with the SAO. The State Attorney has indicated his preference not to enter into such a contract, citing concerns that such a contract will have a negative fiscal impact on his budget in upcoming years.

The Florida Constitution and statutes authorize municipalities to prosecute their own ordinances in County Court but are silent as to whether counties have similar authority. Federal Courts have held that if a prosecutor acts without any colorable claim of authority, the prosecutor loses immunity from liability for civil rights violations. Without guidance from the Attorney General or a court, legal staff believes that the County would be subject to civil rights claims if the County undertook to prosecute County ordinance as criminal violations on its own volition.

PREVIOUS RELEVANT BOCC ACTION - n/a

CONTRACT/AGREEMENT CHANGES

None.

STAFF RECOMMENDATIONS

Authorize request to Attorney General seeking opinion on County's authority to prosecute violations of County ordinances.

TOTAL COST none

BUDGETED Yes No

COST TO COUNTY

SOURCE OF FUNDS

APPROVED BY: County Attorney ■ OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

 08/03/04
JOHN R. COLLINS

DOCUMENTATION: Not Required.

AGENDA ITEM # 08